

**CHAPTER NO. 985**

**HOUSE BILL NO. 3040**

**By Representatives Walley, Eckles, Lewis**

**Substituted for: Senate Bill No. 3112**

**By Senator Clabough**

AN ACT to amend Tennessee Code Annotated Title 68, Chapter 11, relative to the definition of home health services

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE

SECTION 1. Tennessee Code Annotated, Section 68-11-201 (15) is amended by inserting the letter (A) between the number (15) and the words " Home health service," and redesignating subdivisions (A) - (F) of subdivision (15) as subdivisions (i), (ii), (iii), (iv), (v), and (vi) and redesignating subdivisions (G) and (H) as (B) and (C) accordingly.

SECTION 2. Tennessee Code Annotated, § 68-11-201(15), is amended by inserting the following subdivisions immediately after subdivision (C):

(D) Skilled nursing care; and physical, occupational, or speech therapy provided through the division of mental retardation services, Department of Mental Health and Mental Retardation, to individuals in conformity with an individualized plan, and which is developed in compliance with standards of the division, are not "home health services" for purposes of these chapters. This exception to the definition to home health services shall apply only in the following circumstances:

(i) To services provided to persons formerly institutionalized at a state-owned facility who receive care from a licensed health care professional, which licensed health care professional provided care to the person while institutionalized or who receives care from a licensed nurse or occupational physical or speech therapist employed by the division of mental retardation services provided, however, nurses and therapists who have current contracts with the division shall continue to provide services; or

(ii) The division of mental retardation services makes a determination that there are not adequate resources available through licensed home health agencies. No such determination shall be made unless the division complies with all of the following:

(a) The division shall give notice to all home health agencies licensed in the area in which services are proposed to be provided;

(b) The notice shall state that the division proposes to provide skilled nursing care, or physical, occupational, or speech therapy to one or more persons residing in the defined geographic area;

(c) The notice shall state the rates of reimbursement and other terms and conditions for providing such services, and

that the division will contract directly with nurses or therapists if adequate resources are not available through home health agencies within thirty days of the date of the notice;

(d) After complying with the preceding notice requirements the division may contract directly with nurses or therapists if adequate resources are not available through licensed home health agencies.

The time period for determining availability of adequate resources through home health agencies as described above shall comply with court orders relative to the provision of services to mentally retarded persons.

(E) Home- and community-based services provided to individuals through the Department of Education or a local education agency and home- and community-based services provided to individuals by a county health department are not "home health services" for purposes of this chapter.

(F) This definition of home health service shall not apply to services provided by community agencies to developmentally disabled individuals residing in the community when such services are provided pursuant to a contract between the community agency and the state agency responsible for services to such individuals.

SECTION 3. Except for the amendatory language in subdivision (E) in Section 2 of this act, as amended, the provisions of this act shall expire as of July 1, 2001, and shall be of no force and effect after that date. The provisions of subdivision (E) shall not expire and shall remain effective. On or before March 1, 2001, the Commissioner of Finance and Administration shall report to the Chairman of the Senate General Welfare Committee and the House Health and Human Resources Committee as to the appropriate regulatory structure for persons providing skilled nursing care and therapy services to mentally retarded persons in their homes. The report by the commissioner shall be based on information provided by advocates for the mentally retarded population, representatives of the home health industry, representatives from the division of mental retardation services and representatives of community agencies licensed by the Department of Mental Health and Mental Retardation.


SECTION 4. This act takes effect on July 1, 2000, the public welfare requiring it; but, to permit the division of mental retardation services to develop quality assurance standards and monitoring protocols for independent practitioners, this act takes effect on January 2, 2001 with respect to independent practitioners who contract with the division of mental retardation services.

PASSED: June 7, 2000

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 26<sup>th</sup> day of June 2000

  
DON CONQUIST, GOVERNOR